

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NIKKI POOSHS,
Plaintiff,
v.
ALTRIA GROUP, INC. *et al.*,
Defendants.

Case No. C-04-1221 PJH-JCS
~~[PROPOSED]~~ ORDER ON
PLAINTIFF'S OBJECTIONS TO
DEFENSE EXHIBITS TO BE
PROFFERED WITH DR.
CUMMINGS

Judge: The Hon. Phyllis J. Hamilton

The Court has reviewed Plaintiff's January 25, 2016 submission regarding objections to Defendants' exhibits to be proffered with Dr. Cummings. The Court rules as follows:

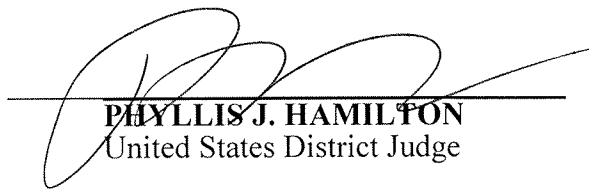
Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
A-365	IRRELEVANT, 403	This is a report authored by the California Department of Public Health on Cigarettes and Health. This is directly relevant to public awareness of health risks of smoking.	<i>overruled</i>

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
A-478	IRRELEVANT, 403, UNDUE PREJUDICE	Plaintiff Nikki Pooshs testified that she actually saw this January 13, 1964 editorial cartoon regarding the Surgeon General's Report published in the <i>Oakland Tribune</i> . See 12/11/2006 Nikki Pooshs Trial Preservation Cross at 95:14-23. This is directly relevant to her awareness of the health risks of smoking.	<i>overruled</i>
B-321	DESIGN, IRRELEVANT	Conditionally offered depending on the scope of Dr. Cummings' testimony.	<i>overruled</i>
B-430	Hearsay	Not offered for truth of the matter asserted; offered for to show that a public speech was made by RJR employer and did not remain internal to the company	<i>overruled</i>
B-554	IRRELEVANT, 403, ILLEGIBLE	Relevant to contextualize the Frank Statement that Plaintiff has already offered and elicited testimony.	<i>sustained</i>
B-557	Violates pre-trial ruling #22; irrelevant; 403; Hearsay	This is a publicly available article on the health risks of smoking. Directly relevant to the pre-1969 failure to warn claim.	<i>overruled</i>
B-559	IRRELEVANT, 403	Relevant to contextualize the Frank Statement that Plaintiff has already offered and elicited testimony.	<i>sustained</i>
B-561	IRRELEVANT, 403	Relevant to RJR/PM's state of mind pre-1969.	<i>overruled</i>

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
B-563 B-565	IRRELEVANT, MEDICAL TREATISE	Publicly available information concerning health risks of smoking pre-1969.	<i>overruled</i> <i>overruled</i>
B-567	IRRELEVANT, 403, ILLEGIBLE	Conditionally offered depending on the scope of Dr. Cummings' testimony.	<i>sustained</i>
B-571 B-572 B-573 B-574	IRRELEVANT, 403	Plaintiff is permitted to show ads that are pre-1969. These ads are relevant to rebut Plaintiff's proffer.	<i>not admissible but may be used as demonstratives</i>
B-575	IRRELEVANT, 403, MEDICAL TREATISE	Relevant to RJR/PM's state of mind pre-1969.	<i>overruled</i>
B-576 <u>B-578</u> <i>not in binder</i>	IRRELEVANT, 403	Plaintiff's exhibit 24 is a Flintstones advertising. If Plaintiff's 24 is admitted, these are relevant to rebut that advertisement.	<i>approved if it's 24 is admitted</i>
B-580	DESIGN, ILLEGIBLE	Conditionally offered depending on the scope of Dr. Cummings' testimony.	<i>sustained</i>

IT IS SO ORDERED

Dated: January 25, 2016


PHYLLIS J. HAMILTON
 United States District Judge